

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7482 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SURESHBHAI CHHOTELAL VARMA

Versus

COLLECTOR

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Appearance:

MR NM KAPADIA for Petitioner  
Ms.HARSHA DEVANI ADDL. GOVERNMENT PLEADER  
for Respondent No. 1

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CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 06/02/97

ORAL JUDGEMENT

Rule. Ms. Harsha Devani, learned Assistant Government Pleader waives service of notice of Rule on behalf of the respondent.

At the request of learned advocates appearing for the parties, the petition is heard today.

What is challenged in the present petition which is filed under Art. 226 of Constitution, is order dt. October 18, 1996 passed by respondent under Sec.6A of the Essential Commodities Act, 1955 confiscating tanker bearing registration no.GRX 4717. The grievance made in the petition is that before rendering the impugned decision, the respondent has not heard the petitioner. The fact that the petitioner is not heard by the respondent before passing the impugned order, is not in dispute. In view of the provisions of Sec.6A of the Essential Commodities Act, 1955, it hardly needs to be emphasized that the person affected must be heard by the competent authority before passing the order. As the impugned order is passed in complete violation of principles of natural justice, it is liable to be set aside.

For the foregoing reasons, the petition succeeds. The impugned order dt. October 8, 1996 rendered by the respondent is hereby set aside and quashed. Matter is remitted to the respondent for deciding afresh on merits and in accordance with law. The respondent shall issue notice to the petitioner and after hearing the petitioner, take appropriate decision in the matter. Rule is made absolute accordingly, with no order as to costs

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